



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Tatsuya ITO et al.

Group Art Unit: 2853

Application No.: 10/751,512

Examiner: R. Gordon

Filed: January 6, 2004

Docket No.: 113112.01

For: SYSTEM AND METHODS FOR MANUFACTURING A COLOR FILTER USING A
SCANNING INK JET HEAD

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed November 23, 2004, Applicants respectfully request reconsideration in view of the following remarks.

Claims 41-44 are pending.

A. Applicants note with appreciation the allowance of claims 42-44.

B. The Office Action rejects claim 41 under 35 U.S.C. §101 in a double patenting rejection, asserting that claim 41 claims the same invention as that of claims 8 and 9 of U.S. Patent No. 6,758,550 ("550 patent"). This rejection is respectfully traversed.

Claim 41 is clearly broader than claims 8 and 9 of the 550 patent. For example, claims 8 and 9 of the 550 patent define variables W, m, D, P and n, and recite relational equations that substantially hold. Claim 41 does not recite such relational equations, and therefore is broader than claims 8 and 9 of the 550 patent.

It appears that the Office Action confuses the issue of domination with the issue of double patenting. MPEP §804 makes it clear that "domination by itself cannot support a double patenting rejection." As also explained in §804, "[a] reliable test for double patenting under 35 U.S.C. §101 is whether a claim in the application could be literally infringed without literally infringing a corresponding claim in the patent." In this case, because claim 41 of this application is broader than claims 8 and 9 of the 550 patent (e.g., because claim 41 does not recite the relational equations recited in claims 8 and 9 of the 550 patent), it is clear that claim 41 could be literally infringed without literally infringing claims 8 and 9 of the 550 patent.

Accordingly, the double patenting rejection is improper and must be withdrawn.

* * *

Accordingly, it is respectfully submitted that this application is in condition for allowance. Favorable consideration and prompt allowance are respectfully solicited.

Should the Examiner believe that anything further is desirable to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

J. Adam Neff
Registration No. 41,218

JAO:JAN/scg

Date: January 21, 2005

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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